IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 823 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARAT PRESS (NOW CLOSED) - Petitioner(s)

Versus

RAMNIKLAL NATHALAL VALA - Respondent(s)

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Appearance :

MR DG CHAUHAN for Petitioner(s) : 1,
MR PV HATHI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 12/01/2006

CAV JUDGMENT

1.By filing this petition under Article 227 of the Constitution of India, the petitioner has challenged the judgment and award passed by the Presiding Officer,

Labour Court, Rajkot dated 30.07.1996 in Reference (LCR) No.244 of 1988, by which the Labour Court has directed the petitioner to reinstate the respondent – workman on his original post with continuity of service and also directed the petitioner to pay 50% back wages for the intervening period.

2. Being aggrieved and dissatisfied with the said judgment and award passed by the Presiding Officer, Labour Court dated 30.07.1996 in Reference (LCR) No. 244 of 1988, the petitioner has preferred the present petition for quashing and setting aside the same.

3. It can be seen from the record that the petitioner was running a printing press called “Bharat Press”. It is the case of the petitioner that the petitioner had employed respondent workman on part time basis for composing and printing at the monthly salary of Rs.500/-. It is also the case of the petitioner that the respondent had ceased to report for duty from 24.07.1987 and thereafter, raised the industrial dispute. The said industrial dispute was referred to the Labour Court, Rajkot which was numbered as Reference (LCR) No. 244 of 1988.

4. The Labour Court, after appreciating the evidence on record, by its judgment and award dated 30.07.1996, directed the petitioner to reinstate the petitioner

workman with continuity of service and also directed the petitioner to pay 50% back wages for the intervening period. It can also be noticed that the Labour Court has specifically come to the conclusion that without following the provisions of Industrial Disputes Act, the services of the respondent workman have been terminated. The Labour Court has also come to the conclusion that the submission of the petitioner that the respondent workman has left the services on his own is not supported by any documentary evidence on record. The Labour Court has also recorded the finding that there was no dispute between the employee and employer i.e., petitioner and respondent in respect of the work being carried out by the respondent workman and there was no reason for the respondent workman to leave the services all of a sudden. The Labour Court has also specifically come to the conclusion, after appreciating the evidence on record that the petitioner has merely changed the name of the press from Bharat Press to Computer Printers and for such change, no documentary evidence have been produced by the petitioner on record before the Labour Court and that this aspect has also not been reported either to the Factory Inspector or before the appropriate authority. It is also to be noted here that the petitioner has

failed to prove before the Labour Court that the petitioner has closed its establishment and the respondent workman has left the services on his own. The Labour Court, after considering the evidences at Exh. 18 to 20, has come to the conclusion that the petitioner has merely changed the name of the petitioner i.e., from `Bharat Press' to `Computer Printers' and the owners of the said Computer Printers are the same as that of Bharat Press. Ultimately, after appreciating the evidence on record, the Labour Court directed the petitioner to reinstate the respondent workman in service with continuity of service and also directed the petitioner to pay 50% back wages for the intervening period.

5. Once the Labour Court, after appreciating the evidence on record, has specifically come to the conclusion that the petitioner has failed to prove that the respondent workman has left the services on his own and further that the petitioner has not produced any documentary evidence to show that the petitioner has closed its institute i.e., Bharat Press after following the provisions of Industrial Disputes Act, this Court cannot reappreciate the evidence in a petition under Article 227 of the Constitution of India. It is also required to be noted that it is not the case of the

petitioner that the petitioner has complied with the provisions of the Industrial Disputes Act at the time of closure of Bharat press.

6. Under the circumstances, I do not find any substance in this petition and the same is required to be dismissed. Accordingly, this petition is dismissed. The judgment and award passed by the Presiding Officer, Labour Court, Rajkot dated 30.7.1996 in Reference (LCR) No. 244 of 1988 is hereby confirmed. Rule discharged. Interim relief, if any, granted earlier stands vacated forthwith. The petitioner is directed to comply with the judgment and award dated 30.7.1996 in Reference (LCR) No. 244 of 1988 as early as possible preferably within a period of two months from the date of receipt of the writ of this order.

(SHARAD D DAVE, J)

srilatha